PEREIRA v. CH'NG LIAN KEE & ANOR.

[A.C.J. (Ong J.) June 20, 1964]

[K.L. — Civil Appeal No. 7 of 1964]

Landlord and Tenant — Repossession — Premises let as vacant land — Tenant erecting temporary building — Land required for erection of buildings of permanent character — Control of Rent Ordinance, 1956, s. 12(1)(f) and (l).

Practice and Procedure — Issue of law — R.S.C. 1957, O. 25 r. 2.

The landlords were the registered proprietors of a piece of land, on a portion of which, originally let as vacant land, the tenant had since erected a building of a temporary character. They applied for sub-division and had since had separate titles issued for the sub-divided lots. They required repossession of the portion let on the ground that the land was required by them for the erection of buildings of a permanent character, and plans had been approved for such purpose. In the court below the learned magistrate, being of opinion that the case fell under section 12(1)(l), gave judgment to the landlords. On appeal it was contended for the tenant that (i) the issue was the length of notice and the case fell within para (f) of section 12(1), and (ii) the notice was bad because the respondents did not become registered proprietors of the land till November 3, 1963.

Held: (1) the facts being in no way disputed, the issue was one of law, which in the High Court would have been disposed of under O. 25, r. 2. The learned magistrate was therefore right in following the practice of the High Court;

(2) the plaintiffs had been registered proprietors since 1958 and the new titles had been issued merely in substitution for the former one upon sub-division.

CIVIL APPEAL.

K. V. Chelliah for the appellant.

Lall Singh Muker for the respondents.

Ong J.: This is an appeal by the tenant of rent-controlled premises against the decision of the magistrate at Klang, ordering him to deliver up vacant possession to his landlords.

The facts are very simple. The landlords are the registered proprietors of a piece of land at Port Swettenham, on a portion of which, originally let as vacant land, the defendant has since erected a building of a temporary character. The plaintiffs applied for sub-division and have since had separate titles issued for the sub-divided lots. They require repossession of the portion let to the defendant on the ground that the land is now required by them for the erection of buildings of a permanent character, and plans have been approved for such purpose by the Klang Town Council.

At the hearing before the magistrate, both parties were represented by counsel, and it was agreed that the only issue was whether counsel for the defendant was right in his contention that the length of notice required was one year under section 12(1)(f). The learned magistrate, being of opinion that the case fell under section 12(1)(l) gave judgment for the plaintiffs. In my view he clearly was right.

On hearing of this appeal two grounds were raised by the applicant; first, that the magistrate failed to take any evidence, and secondly, that the notice terminating the tenancy was invalid.

I do not think there are any merits in the first ground. The record shows that the plaintiff's issue documents of title and approved building plans had been produced and inspected by counsel for the defendant who expressed himself as satisfied with them. Counsel then stated that the only point remaining for decision is the length of notice; his contention was that the case fell within para (f) of section 12(1). Counsel for the plaintiff argued that what applied was para (l). Thus, the facts being in no way disputed, the issue was one of law, which in the High Court would have been disposed of under Rules of the Supreme Court, Order 25 rule 2. I cannot see how the learned magistrate erred in any way in following the practice of the High Court.

The second ground of appeal is that the notice given on May 2, 1962 was bad, because the plaintiffs did not become registered proprietors of the land in question till November 3, 1963. This ground, however, was raised under a misapprehension because the plaintiffs have been registered proprietors since 1958, and new titles have been issued merely in substitution for the former one upon subdivision.

The appeal is accordingly dismissed. As counsel for the respondent very generously waived his right to costs of this appeal, I make no order thereon.

Appeal dismissed.

Solicitors: *K. V. Chelliah*; *Lovelace & Hastings.*